

W. LeGRANDE LAW

IBLA 81-175

Decided June 16, 1981

Appeal from a decision of the Utah State Office, Bureau of Land Management, declaring mining claims abandoned and void. U MC 131333 and U MC 131334.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Abandonment

The failure to file the instruments required by sec. 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1 and 3833.2 in the proper Bureau of Land Management office within the time periods prescribed therein conclusively constitutes abandonment of the mining claim by the owner.

2. Notice: Generally -- Regulations: Generally -- Statutes
All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: W. LeGrande Law, pro se.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

W. LeGrande Law has appealed from a decision of the Utah State Office, Bureau of Land Management (BLM), dated November 14, 1980, declaring the Walton Nos. 1 and 2 mining claims abandoned and void for failure to file timely evidence of annual assessment work pursuant

to section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and its implementing regulations 43 CFR 3833.2-1(a) and 43 CFR 3833.4(a).

The Walton Nos. 1 and 2 mining claims were located on September 1, 1959, and recorded with BLM on October 10, 1979. On September 3, 1980, BLM received proof of labor for the claims.

[1] The applicable regulation, 43 CFR 3833.2-1(a), states that the owner of an unpatented mining claim located on or before October 21, 1976, shall file evidence of annual assessment work or a notice of intention to hold the claim in the proper BLM Office on or before October 22, 1979, or on or before December 30 of each calendar year following the calendar year of recording, "whichever date is sooner." (Emphasis added.) See 43 U.S.C. § 1744(a) (1976).

Pursuant to this regulation, appellant was required to file the necessary documents "on or before October 22, 1979."

In his statement of reasons appellant states that "according to the mining laws of the State, one has the balance of the locating year plus the next year until August 31, to do his assessment work and file his proof of Labor."

Regardless of the State requirements for filing assessment work, Federal requirements are controlling. See Norris v. United Mineral Products, 61 Wyo. 386, 158 P.2d 679, 689 (1945). Appellant was required to comply with 43 CFR 3833.2-1(a). Pursuant to 43 CFR 3833.4(a), the failure to satisfy the filing requirements of 43 CFR 3833.2-1(a) shall result in a conclusive presumption of abandonment and the claim shall be void. See 43 U.S.C. § 1744(c) (1976).

When appellant failed to file timely either an affidavit of assessment work or a notice of intention to hold the mining claims, BLM properly held the claims to have been abandoned and void. Robert Keough, 54 IBLA 337 (1981).

Appellant indicates that he recorded his mining claims in accordance with instructions published in the newspaper. However, reliance by appellant on a newspaper article concerning recordation cannot relieve him of the obligation of complying with the requirement for filing assessment work. Id.

[2] It is unfortunate that appellant was confused concerning the recordation requirements of assessment work, but such confusion is not a sufficient basis to prevent the voiding of these claims as required by 43 CFR 3833.4(a). All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. § 1507, 1510 (1976); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Dale E. Henkins, 52 IBLA 9 (1981); Clifford J. Kelch, 50 IBLA 127 (1980).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bruce R. Harris
Administrative Judge

We concur:

Anne Poindexter Lewis
Administrative Judge

Douglas E. Henriques
Administrative Judge

